

**Sabr Chems. Group, LLC v Norrhest Chems., Inc.**

2023 NY Slip Op 34327(U)

December 11, 2023

Supreme Court, New York County

Docket Number: Index No. 650608/2019

Judge: Debra A. James

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. DEBRA A. JAMES**

**PART 59**

*Justice*

-----X

SABR CHEMICALS GROUP, LLC,

Plaintiff,

- v -

NORTHEAST CHEMICALS, INC., UNITED FOODS  
CORPORATION and JIMMY HSU,

Defendants.

-----X

INDEX NO. 650608/2019

MOTION DATE 12/06/2023

MOTION SEQ. NO. 008 009

**ORDER –  
RESETTLED/AMENDED  
(MOTION RELATED)**

The following e-filed documents, listed by NYSCEF document number (Motion 008) 264, 265, 266, 267, 274, 275, 276, 277, 278, 280, 284, 285

were read on this motion to/for DISCOVERY.

The following e-filed documents, listed by NYSCEF document number (Motion 009) 268, 269, 270, 271, 272, 273, 281, 282, 283, 286

were read on this motion to/for DISCOVERY.

ORDER

Upon the foregoing documents, it is

ORDERED that the Order of December 11, 2023, resolving motion sequence numbers 008 and 009 in this action is VACATED, RESETTLED, and CORRECTED pursuant to CPLR § 5019(a) [see Kiker v Nassau County, 85 NY2d 879 (1995)] as follows:

ORDER

Upon the foregoing documents, it is

ORDERED that the motion pursuant to CPLR § 3103(a) of plaintiff for a protective order vacating the notice of

deposition of George Karfunkel (motion sequence number 008) is DENIED; and it is further

ORDERED that to the extent that it seeks an order that compels defendants to produce business records for the period of 2016 to present, including

- (1) minutes of corporate meetings;
- (2) monthly statements of bank accounts of defendant Northeast Chemical and United Foods Corporation;
- (3) office leases and record of telephone numbers of defendants Northeast Chemical and United Food Corporation; and
- (4) payroll records showing wages paid to defendant Jimmy Hsu,

the motion pursuant to CPLR § 3126 of plaintiff (motion sequence number 009) is GRANTED; and it is further

ORDERED that, within twenty (20) days from service of a copy of this order with notice of entry, plaintiff shall post on NYSCEF a proposed (discovery status conference) order, including proposed deadlines for any outstanding deposition(s) and document production; and it is further

ORDERED that defendants shall submit a counter proposed (discovery status conference) order, if any, within twenty (20) days thereafter; and it is further

ORDERED counsel are directed to post on NYSCEF a further proposed discovery status conference order or further competing proposed discovery conference order(s) at least two days before

February 29, 2024, on which date counsel shall appear via Microsoft Teams, unless such appearance be waived by the court.

DECISION

At least with respect to the knowledge of George Karfunkel as to the credibility of defendant Jimmy Hsu about whether defendant Hsu communicated that Karfunkel accused deponent McDonald of defrauding Karfunkel, defendants have demonstrated the lack of knowledge of deponent McDonald. Further, as alleged managing member of plaintiff Sabr Chemical Group, LLC, Karfunkel may well have knowledge of the existence or non-existence of a person named King Fischer, whose e-mail address appears on e-mail correspondence relating to the transaction in dispute, on which question deponent McDonald equivocated. Therefore, no protective order is warranted. See Amos Parrish & Co v Applestein, 28 AD2d 979 (1<sup>st</sup> Dept 1967).

Plaintiff has demonstrated that the business records of defendants that it seeks to discover are material and necessary

evidence pursuant to CPLR § 3103(a). See Radium2 Capital, LLC v Xtreme National Maintenance Corp, 202 AD3d 638 (1<sup>st</sup> Dept 2022).

*Debra A. James*

20231211173439DJAMES58B00B9FB4A449359084D0DC7822BF92

12/11/2023

DATE

DEBRA A. JAMES, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE